



CITY OF DULUTH
Planning Division

411 W 1st St, Rm 208 * Duluth, Minnesota 55802-1197
Phone: 218/730.5580 Fax: 218/723-3559

STAFF REPORT

File Number	PL 13-148	Contact	Steven Robertson, (218) 723-2559	
Application Type	Variance, Front Yard Setback	Planning Commission Date	December 10, 2013	
Deadline for Action	Application Date	November 1, 2013	60 Days	December 31, 2013
	Date Extension Letter Mailed	November 19, 2013	120 Days	March 1, 2014
Location of Subject	4211 McCulloch St			
Applicant	Rob and Mary Sailstad	Contact	rsailstad@gmail.com	
Agent		Contact		
Legal Description	Lot 14, Bock 54, London Addition to Duluth			
Site Visit Date	November 16, 2013	Sign Notice Date	November 25, 2013	
Neighbor Letter Date	November 20, 2013	Number of Letters Sent	54	

Proposal

The applicant is seeking a variance to construct an addition (enclosed porch) to the existing single family home that would be 20.5 feet from the front lot line instead of the required 25 feet.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	R-1	Residential	Traditional Neighborhood
North	R-1	Residential	Traditional Neighborhood
South	R-1	Residential	Traditional Neighborhood
East	R-1	Residential	Traditional Neighborhood
West	R-1	Residential	Traditional Neighborhood

Summary of Code Requirements (reference section with a brief description):

Sec. 50-14.5 - Residential-Traditional District. Front Yard Setback, 25 feet or the average of adjacent developed lots.

Sec. 50-37.9. B - Variances. Procedures. "The Planning Commission shall . . . make a decision on the application based on the criteria in subsections 50-37.9.C through M

Sec. 50-37.9.C. - General Variance Criteria. See UDC pages 5-29 through 5-33 (paraphrased here):

Granting of variances of any kind is limited to situations where, due to characteristics of the applicant's property, enforcement of the ordinance would cause the landowner practical difficulties or undue hardship. The Planning Commission must find the following for a variance to be granted: a) That they are proposing to use the property in a reasonable manner, b) that the need for relief from the normal regulations is due to circumstances unique to the property and not caused by the landowner, c) that granting the variance will not alter the essential character of the area, d) that granting the variance is consistent with the intent of the UDC and the Comprehensive Plan.

H-1

Comprehensive Plan Findings (Governing Principle and/or Policies) and Current History (if applicable):

Traditional Neighborhood Future Land Use. Characterized by grid or connected street pattern, houses oriented with shorter dimension to the street and detached garages, some with alleys. Limited commercial, schools, churches, and home-businesses. Parks and open space areas are scattered through or adjacent to the neighborhood. Includes many of Duluth's older neighborhoods, infill projects and neighborhood extensions, and new traditional neighborhood areas.

Discussion (use numbered or bullet points; summarize and attach department, agency and citizen comments):

- 1) The applicant is seeking a variance to construct an addition to the existing single family home that would be 20.5 feet from the front lot line instead of the required 25 feet. The applicant currently has an unenclosed porch. Unenclosed porches are allowed (UDC page 4-3) to project 10 feet into the front yard setback. By enclosing the porch, it becomes a structure addition to the single family home that needs to meet the front yard setback of 25 feet.
- 2) According to the City Assessor, the home was built in 1908 and the garage was built in 1977. The subdivision, London Addition to Duluth, was platted in 1871. The lot is approximately 50 feet x 140 feet. There is a 20 foot improved alley to the rear of the lot.
- 3) The applicant wishes to enclose the porch in order to reduce an ongoing nuisance issue with pigeons.
- 4) The proposed addition to the home will not have a negative impact on the neighborhood, as the proposed addition is a modest size and is not out of character with other similar properties in the neighborhood.
- 5) The applicant currently enjoys reasonable the use of their property with a single family home and a detached accessory garage. If the variance was denied, it would not deprive the property owner of a substantial property right.
- 6) The lot does not have wetland, slope, bedrock, or other topographical conditions that present a practical difficulty.
- 7) No City Department or Public Agency comments were received on this application. Two citizens contacted city hall to express their general support of the project.
- 8) The requested variance is not necessary for the preservation and enjoyment of a substantial property right. The requested variance is for the convenience of the applicant. The applicant does not have a practical difficulty that would require a variance to enjoy the use of the property.
- 9) Variances lapse if the project or activity authorized by the permit or variance is not begun within one year of approval.

Staff Recommendation (include Planning Commission findings, i.e., recommend to approve):

Based on the above findings, Staff finds that the requested variance does not meet the criteria established in 50-37.9. The application does not meet the standards for a variance and therefore staff recommends denial.

H-2

Attachments (aerial photo with zoning; future land use map; site plan; copies of correspondence)

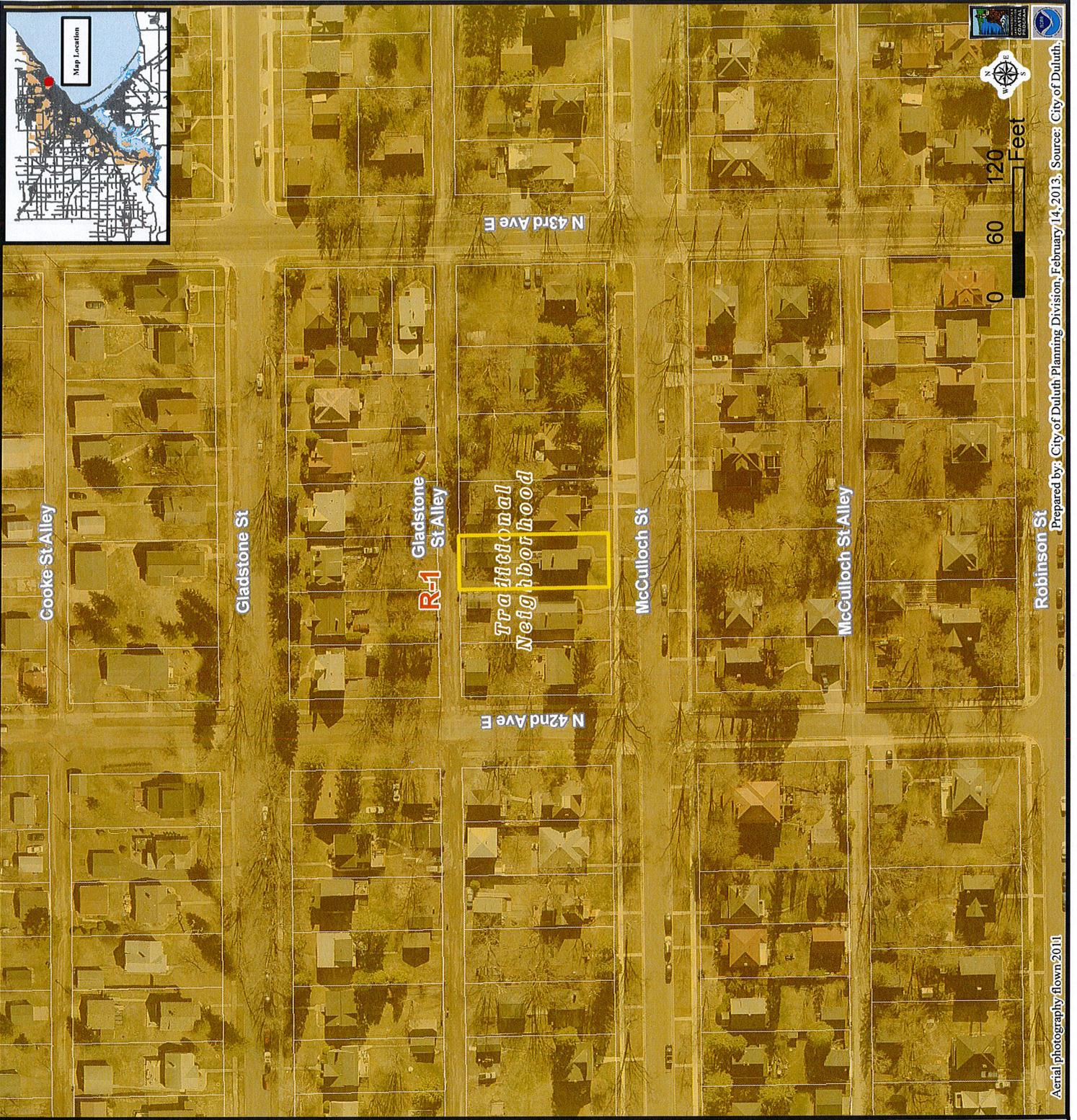


Legend

Zoning Boundaries
 Zoning Boundaries

Future Land Use
 Preservation
 Recreation
 Rural Residential
 Low-density Neighborhood
 Traditional Neighborhood
 Urban Residential
 Neighborhood Commercial
 Neighborhood Mixed Use
 General Mixed Use
 Central Business Secondary
 Central Business Primary
 Auto Oriented Commercial
 Large-scale Commercial
 Business Park
 Tourism/Entertainment District
 Medical District
 Institutional
 Commercial Waterfront
 Industrial Waterfront
 Light Industrial
 General Industrial
 Transportation and Utilities

The City of Duluth has tried to ensure that the information contained in this map or electronic document is accurate. The City of Duluth makes no warranty or guarantee concerning the accuracy or reliability. This drawing/data is neither a legally recorded map nor a survey and is not intended to be used as one. The drawing/data is a compilation of records, information and data located in various City, County and State offices and other sources affecting the area shown and is to be used for reference purposes only. The City of Duluth shall not be liable for damages in connection with the use of this information contained within.



Aerial photography flown 2011



City Planning

PL 13-148

Variance

4211 McCulloch Street

Legend

Stream Type

- Trout Stream (GPS)
- Other Stream (GPS)

Water Distribution System

- 30 - 60" Water Pipe
- 16 - 24" Water Pipe
- 4 - 6" Water Pipe

Sanitary Sewer Collection System

- Sanitary Sewer Collector
- Sanitary Sewer Interceptor
- Sanitary Sewer Forced Main

Gas Distribution Main

- Storage Basin
- Pump Station
- 8" - 16" Gas Pipes
- 4" - 6" Gas Pipes
- 0" - 4" Gas Pipes

Storm Sewer Collection System

- Storm Sewer Pipe
- Storm Sewer Catch Basin
- Discharge_Points

Right-of-Way Type

- Road or Alley ROW
- Vacated ROW

Easement Type

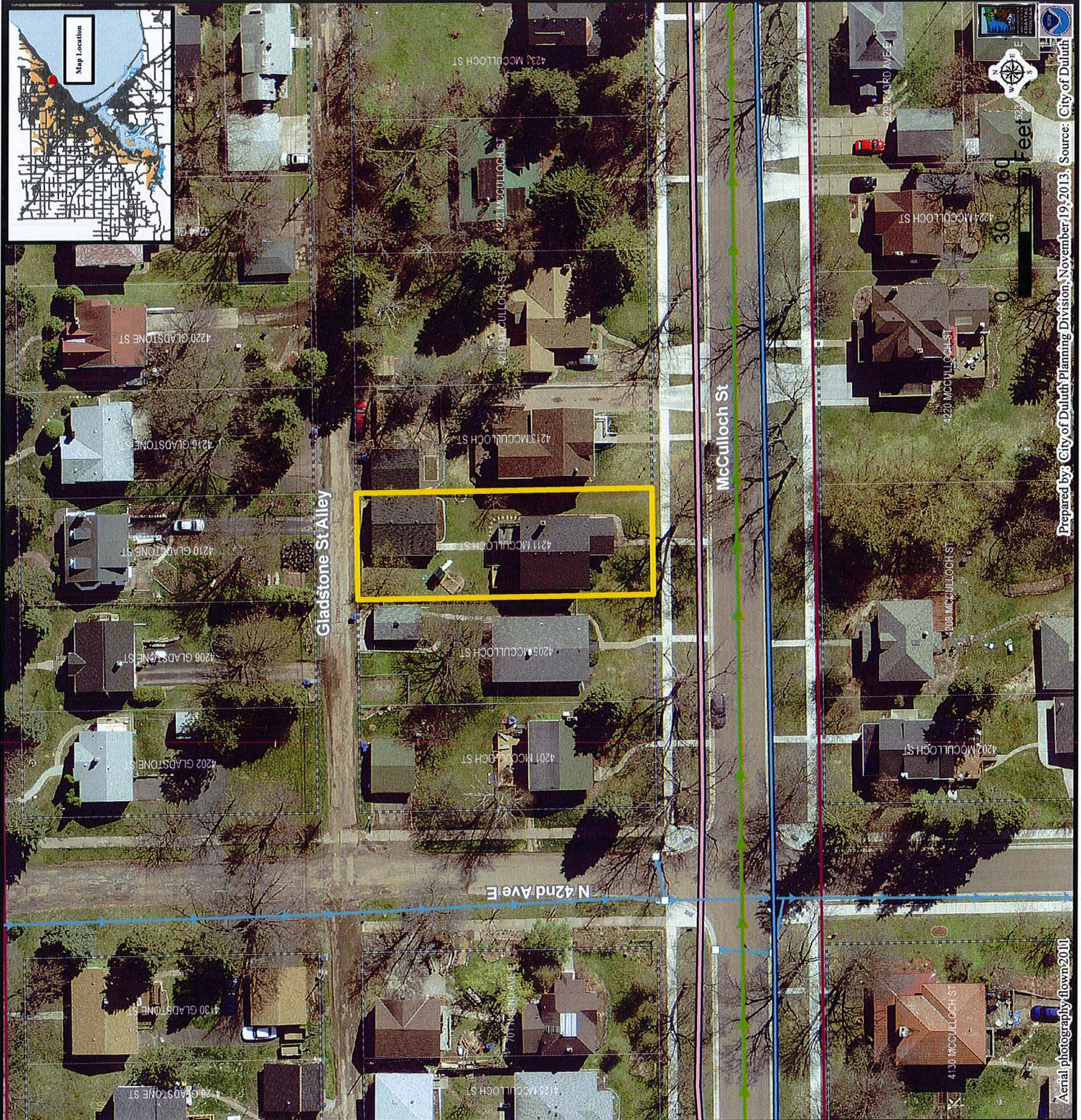
- Utility Easement
- Other Easement

Floodplain Type

- General Flood Plain
- Flood Way
- Flood Fringe

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HL



Aerial photography (down-2011)

Prepared by: City of Duluth Planning Division, November 19, 2013. Source: City of Duluth



Robert Sailstad

4211 McCulloch St • Duluth, MN 55804
Phone: 218-464-7573 • E-Mail: rsailstad@gmail.com

Date: October 31st, 2013

City of Duluth Planning and Construction Services

Dear City of Duluth Planning Department:

I am requesting a setback reduction variance for an existing front porch which has had a failing foundation due to the age of structure. The porch has been a defining feature of our house and we are committed to retaining the look and utility of this portion of our house. We have an existing permit to rebuild the foundation of the porch on the same footprint and size as the existing porch. Our request for the variance is to simply add windows into the side and front portions of the porch as a means of resolving an ongoing and persistent issue with regularly returning pigeons and to match the style and features of several other houses on our block. Granting this request would not have any negative impact on our neighbors and is supported by our neighbors since our pigeon issue has affected our adjoining houses as well.

We are not looking to extend our living area of our house – we are simply looking to add windows and rebuild our failing foundation so that we can both retain the architectural look of our house and retain the existing roof and size of the porch.

We are including a survey of the property and the existing approved permit as supporting documentation. We would retain the same existing landscaping and buffering as the structure size and shape has not changed from the original design. I am also including original pictures of the porch, existing pictures of the in-progress replacement foundation work, and similar porches with windows on our block.

Thank you in advance for your consideration of this request.

Sincerely,

Robert Sailstad
4211 McCulloch St

Lot 14, Block 54, London Addition to Duluth

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H-6

Appendix 1: Original Porch View



Existing porch was separating from the house as the foundation and supporting structure was buckling. Pigeons have been frequent issues as they have utilized the area inside the porch and under roof for nesting and we've tried several methods to resolve without success.

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H-7

Appendix 2: Example of similar porches with windows on our same block:



H-8

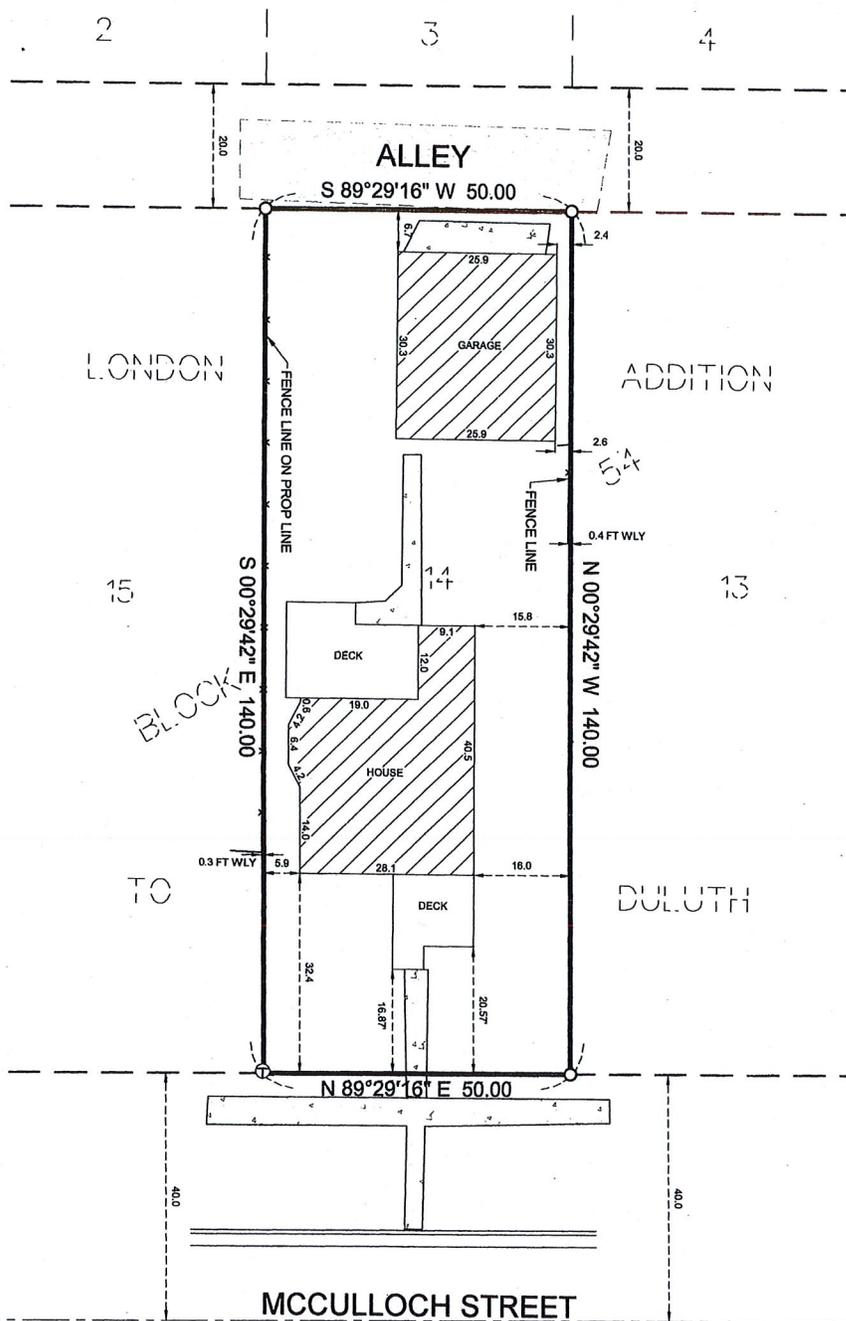
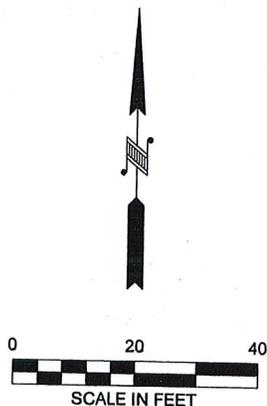
Appendix 3: Current state of the reconstruction of the foundation:



H-9

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CERTIFICATE OF SURVEY FOR: ROBERT & MARY SAILSTAD



LEGEND

These standard symbols will be found in the drawing.

- EXISTING BUILDINGS
- CONCRETE
- GRAVEL
- FENCE LINE
- SET REBAR RLS 14374
- FOUND T-STAKE MONUMENT

LEGAL DESCRIPTION PER TAX STATEMENT

Lot 14, Block 54, LONDON ADDITION TO DULUTH, according to the recorded plat thereof, St. Louis County, Minnesota.

I hereby certify that this plan, specification, or report was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the State of Minnesota.

Date: 10-29-13

Ronald L. Krueger MN License No. 14374

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NOTES

BEARINGS ARE BASED ON THE ST. LOUIS COUNTY TRANSVERSE MERCATOR COORDINATE SYSTEM OF 1996.

BUILDING DIMENSIONS SHOWN ARE FOR HORIZONTAL & VERTICAL PLACEMENT OF STRUCTURE ONLY.

THIS SURVEY HAS BEEN PREPARED WITHOUT BENEFIT OF A TITLE COMMITMENT OR TITLE OPINION. A TITLE SEARCH FOR RECORDED OR UNRECORDED EASEMENTS WHICH MAY BENEFIT OR ENCUMBER THIS PROPERTY HAS NOT BEEN COMPLETED BY ALTA SURVEY COMPANY, INC.

DATE: 7-11-13
SCALE: 1 IN = 20 FEET
PROP ADD: 4211 MCCULLOCH ST
PROJECT NO: 13-189

ALTA
SURVEY COMPANY, INC.
Residential/Commercial Land Surveying-Land
Development-Legal Descriptions
P.O. BOX 161138 Duluth, MN 55806
Phone: 218-727-5211 Fax: 218-727-3788

H-10

Steven Robertson

From: Rob Sailstad <rsailstad@gmail.com>
Sent: Sunday, November 24, 2013 8:09 PM
To: Steven Robertson
Subject: Re: Next Planning Commisison Meeting

Mr. Robertson,

Thank you for your reply and clarification of the requirements. I appreciate that you understand our assertion that enclosing of the porch wouldn't have a negative impact. From a "practical difficulty" standpoint, I'd like to add to my to initial application the following points:

- I do believe our situation is unique in that we are replacing an existing structure to the same front setback distance as it previously existed and we are ensuring that we keep within the character of the previous structure and to other enclosed porches within our neighborhood. Our reason for replacing the foundation was due to recent failure of the supporting foundation of the structure. We were surprised to learn that putting windows in our front porch was viewed as a use-change since it will still remain as essentially an outside structure for our house and we are viewing the change as keeping within the character of the neighborhood and design of the house. I would welcome any further clarification on what constitutes "use change" vs. rebuilding a failing structure to an existing use. We do not see this as changing the use to a "habitable room".
- I do believe that our property is unique in that, in my understanding, residential front yard setback requirements are intended to limit the proximity of structures to sidewalks, streets, etc. Our McCulloch Street location is unique in that the boulevard and street proximity to the front of our property is much further than the vast majority of streets in both our neighborhood and the city.
- As evidenced, there are two other existing enclosed porches of similar size on our same block that share our same existing setback to our proposed rebuilt enclosed porch.

Again, thanks again for your correspondence and I welcome any further feedback on our application. I fully support and understand the need for these requirements and can provide additional information if needed or requested. I'd also be happy to speak via phone if that is easier for you.

I will send a picture of the posted variance sign this week so that it can be added as documentation within our request.

Sincerely,

Rob Sailstad
rsailstad@gmail.com
218-464-7573

On Thu, Nov 21, 2013 at 3:35 PM, Steven Robertson <srobertson@duluthmn.gov> wrote:

Mr. Sailstad,

H-11



H-12